

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CHRISTOPHER MIELO and SARAH HEINZL,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

STEAK ‘N SHAKE OPERATIONS, INC.,

Defendant.

Case No. 15-cv-180

Filed Electronically

**DEFENDANT’S MOTION FOR SUMMARY JUDGMENT, OR, IN THE
ALTERNATIVE, PARTIAL SUMMARY JUDGMENT**

Defendant Steak ‘N Shake Operations, Inc. (“Steak ‘N Shake”), through counsel, and pursuant to Federal Rule of Civil Procedure 56 and the Court’s Hearing on Status Conference (Doc. 91), files this Motion for Summary Judgment, or, in the Alternative, Partial Summary Judgment.

As set forth fully in Steak ‘N Shake’s Memorandum of Law in Support of its Motion for Summary Judgment or, in the Alternative, Partial Summary Judgment, Concise Statement of Undisputed Material Facts and accompanying Appendix of Record Materials, all of which have been filed contemporaneously with this Motion and which are incorporated by reference, there is no genuine issue of material fact in dispute and Steak ‘N Shake is entitled to judgment as a matter of law.

WHEREFORE, Defendant Steak ‘N Shake respectfully requests that this Court (i) grant its Motion for Summary Judgment and dismiss the Complaint in its entirety and with prejudice; or, alternatively (ii) enter an order finding that Section 211 creates no obligation to develop or

implement a policy or practice concerning the maintenance of places of public accommodations, and that Plaintiffs may not rely on any such putative obligation for any purpose in this litigation.

A proposed order is attached.

Dated: November 7, 2018

Respectfully submitted,

/s/ Patrick J. Fazzini

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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of November 2018, the foregoing **Defendant's Motion for Summary Judgment or, in the Alternative, Partial Summary Judgment**, was filed with the Clerk of the Court using the CM/ECF system which sent notification of such filing to all attorneys of record.

/s/ Patrick J. Fazzini
Patrick J. Fazzini
Attorney for Defendant